

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DARREN A. LUNFORD,

Plaintiff,

v.

ROBERT BANNISTER, et. al.,

Defendants.

3:13-cv-00404-RCJ-WGC

ORDER

Re: Doc. # 31

Defendants filed their motion for summary judgment on February 6, 2015. (Doc. # 31.) The proof of service indicates that Plaintiff was served with the motion at both High Desert State Prison and Warm Springs Correctional Center. (Doc. # 31 at 21.) On February 17, 2015, the Clerk's Office noted that an order dismissing Ronald Centric from this action without prejudice pursuant to Federal Rule of Civil Procedure 4(m) was returned as undeliverable. (Doc. # 35.) According to NDOC's website, Plaintiff was then residing at Northern Nevada Correctional Center (NNCC). Plaintiff did not file a change of address regarding his transfer to NNCC. On April 15, 2015, Plaintiff inexplicably filed a copy of a screening order entered in another of Plaintiff's cases, 3:13-cv-00308-MMD-VPC. (Doc. # 36.) That document was received by the court electronically from NNCC's law library. The Clerk's Office updated the docket to reflect NNCC as Plaintiff's address and Plaintiff was set up for electronic service at NNCC. Plaintiff has since electronically filed additional documents, the relevance of which the court cannot discern. (*See* Docs. # 37, # 38.)

It is Plaintiff's responsibility to promptly notify the court of a change of address, and such notice is to be served on each opposing party or their counsel. LSR 2-2. In fact, the local rules provide that a failure to do so may result in dismissal of an action. *Id.*

The court is nevertheless concerned that Plaintiff was never served with the motion for summary judgment, and because the motion is potentially case dispositive, will require service

1 on Plaintiff at NNCC and will provide him with an opportunity to respond. In addition, it appears
2 that the *Klinge* order advising Plaintiff of the requirements of the summary judgment rule was
3 inadvertently not issued in this matter after the filing of the motion for summary judgment.

4 As a result the court issues the following order:

5 (1) Defendants' motion for summary judgment (Doc. # 31) is **DENIED WITHOUT**
6 **PREJUDICE**, and the Clerk shall **ADMINISTRATIVELY RE-FILE** the motion, along with
7 the sealed exhibits (Docs. # 32, # 33) as of the date of this Order; Plaintiff should therefore
8 receive electronic service of the motion at NNCC. Plaintiff may kite the warden to review the
9 exhibits filed under seal. The court will contemporaneously issue a *Klinge* order advising
10 Plaintiff of the requirements of Federal Rule of Civil Procedure 56 which governs motions for
11 summary judgment;

12 (2) Plaintiff has up to and including **July 13, 2015** to file a response to Defendants'
13 motion for summary judgment;

14 (3) Defendants have up to and including **July 27, 2015** to file a reply brief.

15 Plaintiff is cautioned that any future failure to immediately apprise the court of a change
16 in his address may result in dismissal of this action pursuant to LSR 2-2.

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18 **IT IS SO ORDERED.**

19 June 19, 2015.

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21 WILLIAM G. COBB
22 UNITED STATES MAGISTRATE JUDGE
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